

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

VIKING YACHT COMPANY, a New :
Jersey Corporation; and POST :
MARINE CO., INC., a New Jersey: :
Corporation, : HONORABLE JOSEPH E. IRENAS
: :
Plaintiffs, : :
: CIVIL ACTION NO. 05-538 (JEI)
v. : :
: :
COMPOSITES ONE LLC, a Foreign : **ORDER**
Limited Liability Company; :
CURRAN COMPOSITES, INC., a :
Missouri Corporation; C TWO :
LLC, a Foreign Limited :
Liability Company; and TOTAL :
COMPOSITES, INC., a Delaware :
Corporation joint d/b/a/ COOK :
COMPOSITES AND POLYMERS, a :
fictitiously named Delaware :
Partnership, :
: :
Defendants. :

APPEARANCES:

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IRENAS, Senior District Judge:

This matter having appeared before the Court on Plaintiff Post Marine Co., Inc's ("Post") motion for reconsideration (Docket # 112) and Defendant Cook Composites and Polymers' ("CCP") cross-motion for clarification/reconsideration (Docket # 114), the Court having considered the submissions of the parties, for the reasons set forth in an Opinion issued by this Court on even date herewith, and for good cause appearing;

IT IS on this 18th day of September, 2007,

ORDERED THAT:

- 1) CCP's motion to file a reply memorandum (Docket # 120) is hereby **GRANTED**. The Court has considered the CCP's reply memorandum, submitted in conjunction with this motion, for purposes of the Court's reconsideration Opinion.
- 2) Post's motion for reconsideration (Docket # 112) is hereby **PARTIALLY GRANTED AND PARTIALLY DENIED**.
 - a) To the extent that Post used the 953 Series gel coat in the manufacture of its boats during 2002, Post's reconsideration motion is granted, and CCP's motion for summary judgment as to Post's claims in Count VII (Docket # 71) is hereby **DENIED**.
 - b) The remainder of Post's reconsideration motion is denied.
- 3) CCP's motion for clarification/reconsideration is hereby **PARTIALLY GRANTED AND PARTIALLY DENIED**.
 - a) To the extent CCP's motion is premised upon Plaintiffs' New Jersey Consumer Fraud Act claims in Count XI, CCP's motion is denied.

- b) To the extent that CCP's motion is premised upon its limitation of remedies and exclusion of damages provision, CCP's motion for reconsideration is granted, and:
- i) CCP's motion for summary judgment to enforce its limitation of remedies and exclusion of damages clause (Docket # 71) is hereby **DENIED**.
 - ii) Plaintiffs' cross-motion for summary judgment to deny enforcement of CCP's limitation of remedies and exclusion of damages clause (Docket # 87) is hereby **GRANTED**.

s/ Joseph E. Irenas

JOSEPH E. IRENAS, S.U.S.D.J.